

S.B. Cr. II Bail Application No. 5438/2007
(Laxman Vs. State of Rajasthan)

Date of order : 04.12.2007

HON'BLE MR.H.R.PANWAR,J.

Mr. R.K.Charan for the petitioner.

Mr. Ashok Upadhyay, P.P.

Heard learned counsel for the petitioner and public prosecutor for the State. Perused the order impugned and challan papers.

It is contended by learned counsel for the petitioner that the first informant Dinesh in his FIR as also in the statement recorded under Section 161 Cr.P.C. does not say that the deceased was subjected to cruelty and harassment in connection with demand of dowry and therefore, the essential ingredients to construe the offence under Section 304-B IPC are not made out. Learned counsel has invited my attention to various statements recorded by the police during investigation and the statement of accused petitioner recorded by Sub-Divisional Magistrate in the proceeding under Section 174 Cr.P.C. as also to the statement of one Udailal.

On careful perusal of the challan papers, more particularly the statement of mother of the deceased, there is specific

allegation against the present petitioner being husband of the deceased having subjected the deceased to cruelty in connection with demand of dowry more particularly a sum of Rs. 50,000/- as dowry. Smt. Bali is the wife of the first informant, she stated that she gave amount on one occasion to the petitioner and he was demanding Rs. 50,000/- as dowry and on non-fulfillment of the demand of dowry, the deceased was subjected to cruelty and harassment. There are serious allegations in the statement. So far as the fact that Dinesh the first informant did not say in his FIR, this witness clearly stated that the deceased informed to her and three girls namely Bhagwati, Mangi and Kanchan and she stated that the deceased informed her this fact but this fact was not informed to her husband because it may create dispute and therefore, this fact was not disclosed. However, this fact was informed to her and three girls who are friends of the deceased.

I have also carefully gone through the statement of other witnesses namely Bhagwati, Mangibai and Smt. Kanchan. All these witnesses consistently stated that the deceased used to inform them that her husband is subjecting her to cruelty and harassment and has been assaulting her. There is one more allegation apart from the demand of dowry, the husband used to doubt the character of the deceased.

Be that as it may, there is sufficient material prima-facie to construe the offence under Section 304-B IPC. In the

statements of the witnesses, they categorically stated that the deceased was subjected to cruelty and harassment in connection with demand of dowry more particularly a sum of Rs. 50,000/-. The neighbour Udailal stated that before one and half month, there was quarrel between the deceased and the present petitioner. In the circumstances therefore, in my view, it is not a fit case to release the petitioner on bail. The bail application filed by the petitioner under Section 439 Cr.P.C. is, therefore, dismissed. However, it is open for the petitioner to file a fresh bail application after the statements of material witnesses noticed above are recorded by the trial court.

(H.R.PANWAR), J.

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